

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JUDITH A. JOHNSON,

Plaintiff,

v.

MICHAEL ASTRUE, Commissioner of  
Social Security Administration,

Defendant.

CASE NO. C07-5298FDB

ORDER ADOPTING REPORT  
AND RECOMMENDATION  
AND AFFIRMING  
ADMINISTRATIVE DECISION

The Magistrate Judge issued a Report and Recommendation that this Court affirm the Administration's final decision. Plaintiff, whose past work is as a secretary and administrative assistant, took early retirement. Plaintiff filed for disability benefits alleging that she has been disabled since May 1, 1995, the year she last worked. She alleges disability due to degenerative disc disease and bipolar disorder.

The first application in this case began when she filed her application on August 9, 1997. The ALJ's denial was appealed, this Court adopted Magistrate Judge Weinberg's Report and Recommendation, and the Ninth Circuit affirmed the decision on October 28, 2003.

A second application was filed protectively on July 24, 2002. The ALJ ultimately denied the application, and the Appeals Council denied request for review on May 22, 2007. Plaintiff now brings this action for review of the Administrations final decision denying benefits citing errors as follows: 1. Incorrect application of the doctrine of *res judicata*; 2. ALJ's conduct at the hearing violated Plaintiff's due


1 process rights; and 3. ALJ failed to conduct a full and fair *de novo* hearing. These errors were addressed  
2 by the Magistrate Judge who filed a Report and Recommendation reflecting a thorough examination of the  
3 record and the parties' contentions and arguments. Plaintiff has filed objections to the Report and  
4 Recommendation.

5 The Court has reviewed the record, examined the arguments on the various cited errors, and  
6 concludes that Administration's decision must be affirmed for all the reasons set forth by the Magistrate  
7 Judge.

8 The Court, having reviewed plaintiff's complaint, the Report and Recommendation of Judge J.  
9 Kelley Arnold, United States Magistrate Judge, and objections to the report and recommendation, and the  
10 remaining record, does hereby find and ORDER:

- 11 (1) The Court adopts the Report and Recommendation;
- 12 (2) The administrative decision is AFFIRMED; and
- 13 (3) The Clerk is directed to send copies of this Order to plaintiff's counsel, defendant's counsel  
14 and Magistrate Judge J. Kelley Arnold.

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16 DATED this 23<sup>rd</sup> day of May 2008.

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19 FRANKLIN D. BURGESS  
20 UNITED STATES DISTRICT JUDGE  
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